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FILED

DEC - 3 2008

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF CALIFORNIAPOSTED ON WEBSITE  
NOT FOR PUBLICATIONUNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF CALIFORNIA

In re: ) Case No. 08-37113-D-13L  
 )  
 JO ANN VASSALLO, ) DC No. none  
 )  
 Debtor. )

This memorandum decision is not approved for publication and may not be cited except when relevant under the doctrine of law of the case or the rules of claim preclusion or issue preclusion.

MEMORANDUM DECISION

On November 21, 2008, Jo Ann Vassallo ("the debtor") filed the instant Chapter 13 case. On November 25, 2008 the debtor filed a Motion to Overturn Foreclosure Sale (the "Motion"). The Motion requests the court nullify a pre-petition foreclosure sale on the debtor's residence. The Motion will be denied for the reasons stated below.

The Motion requests the court "overturn" a pre-petition foreclosure sale. As such, the Motion requests the court determine the debtor's interest in real property and such relief can only be granted by way of an adversary proceeding, not by motion. (See Bankruptcy Rule 7001(2))

As a separate basis for denying the Motion, service was defective in that it was not served on interested parties pursuant to Bankruptcy Rule 7004, and the debtor failed to comply with the procedural requirements of Local Bankruptcy Rule 9014.

1 For the foregoing reasons the Motion will be denied by separate  
2 order.

3 Dated: December 3, 2008

  
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4 ROBERT S. BARDWIL  
5 United States Bankruptcy Judge  
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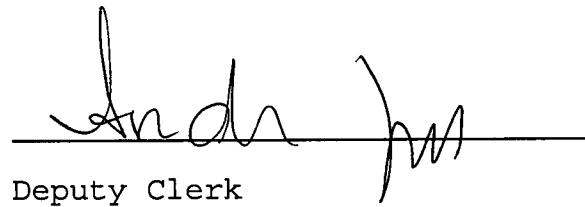
CERTIFICATE OF MAILING

I, Andrea Lovgren, in the performance of my duties as Deputy Clerk to the Honorable Robert S. Bardwil, mailed by ordinary mail a true copy of the attached document to each of the parties listed below:

Jo Ann Vassallo  
9060 Stockhorse Lane  
Granite Bay, CA 95746

Lawrence Loheit  
P.O. Box 1858  
Sacramento, CA 95812-1858

DATE: December 3, 2008

  
Deputy Clerk